

MT LEGISLATIVE HISTORY

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Chapter 60 1985

Bill (H) 103 S _____

Original bill & hist. ____C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) JAN 09 ✓ C

Hearing Date(s) FEB 07 ✓ C

JAN 15 ✓ C

FEB 11 ✓ C

_____ C

FEB 12 ✓ C

_____ C

_____ C

Date Out JAN 15 ✓ C

FEB 12 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

CHAIRMAN--MAZUREK, JOE

SECRETARY-STALEY, CINDY

NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F

TIME: 10:00 A.M.-12 NOON

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0013	1/14	2/13		CONCUR		2/13
KENNERLY, ROLAND F.			REVISING FILING REQUIREMENTS FOR STATE/TRIBAL COOPERATIVE AGREEMENTS			
HB0044	1/15	3/11	3/13	CONCUR AS AMENDED		3/19
WALDRON, STEVE			REQUIRE PAYMENT OF VICTIM COUNSELING BY OFFENDER; RAPE OR INCEST			
HB0052	1/14	2/07		CONCUR AS AMENDED		2/11
MANUEL, REX			YOUTHS POSSESSING INTOXICATING SUBSTANCE; PARENTAL INTERFERENCE WITH ORDER			
HB0088	1/22	1/30		CONCUR		1/31
KEYSER, KERRY R.			AUTHORITY OVER AND POWERS OF PEACE OFFICER HELPING ANOTHER JURISDICTION			
HB0095	3/05	3/18		CONCUR AS AMENDED		3/23
RAMIREZ, JACK			LIMITING TIME WHEN BAD FAITH ACTION AGAINST INSURER CAN BE COMMENCED			
HB0103	1/22	2/07	2/11	CONCUR AS AMENDED		2/12
BROWN, DAVE			REVISE YOUTH COURT JURISDICTION - YOUTH HOMICIDE TRIABLE IN DISTRICT COURT			
HB0106	1/18	2/06		ADVERSE REPORT		2/12
CONNELLY, MARY ELLEN			PROHIBITING ASSIGNMENT OF CERTAIN RETIRED JUDGES FOR TEMPORARY SERVICE			
HB0109	1/14	1/29		ADVERSE REPORT		1/31
SCHYE, TED			REMOVE STATUORY CONFLICT ON CHARGING COSTS TO CONVICTED DEFENDANTS			
HB0155	1/22	3/15	3/15	CONCUR AS AMENDED		3/21
HARPER, HAL			DECLARES A FELONY TO CAUSE OR ALLOW THE FIGHTING OF ANIMALS FOR SPORT			
HB0164	2/22	3/05		ADVERSE REPORT		3/5
BRADLEY, DOROTHY			REQUIRE 180 DAYS' NOTICE TO VACATE MOBILE HOME RENTAL SPACE			
HB0181	1/22	3/12		CONCUR		3/12
REAM, BOB			COLLECTION OF CIVIL AND CRIMINAL PENALTY FOR HAZARDOUS WASTE VIOLATION			

Vice Chairman Daniels then called for comments to Mr. Males' proposed amendments.

COMMENTS TO MIKE MALES' PROPOSED AMENDMENTS: Representative Manuel responded the first amendment is out of the scope of the title of the bill and shouldn't be included in this bill. Regarding the \$50 maximum amendment, he testified the charge right now is approximately \$30. He believes there is no reason to put that in the statute, because the judge will make sure the cost is kept down. Mr. Johnson stated all of these amendments should be totally left out of the bill. Mr. Males stated these are equivalent situations under the law. He discussed these amendments with the Board of Crime Control before he submitted them, and they had no problems.

QUESTIONS FROM THE COMMITTEE: Senator Crippen addressed Mr. Males and stated he liked the amendment but believed this was not the place to put it. He asked if Mr. Males discussed this with regard to the drinking age bills and alluded to this problem in some of that literature. Mr. Males responded yes, he had. Senator Crippen stated he believes we should deal with that section of the law in the drinking age bills that have been passed over to the House. Mr. Males responded his concern about HB 52 is it should eliminate jail terms for minors, but it doesn't do that because Section 61-5-302, MCA, is still on the books.

CLOSING STATEMENT: Representative Manuel stated he realizes there is a local concern about the programs. It is up to the discretion of the sentencing judge.

Hearing on HB 52 was closed.

CONSIDERATION OF HB 103: Representative Dave Brown, sponsor of HB 103, testified this bill is as much a result of his interest in a case in Butte as it is a position taken by the County Attorneys' Association. The bill contains two elements: (1) dealing with flexibility in changes in venue in youth court cases; and (2) the ability to try a youth in district court at the discretion of the judge in those cases for the most serious and violent crimes against human nature. Representative Brown stated the amendment to page 3, line 7, was added in the House after considerable discussion. He believes the amendment relating to sexual intercourse without consent should not be included in the bill. Representative Brown reminded the committee the foundation of this bill is based on judicial discretion. It does not mean that in every case a youth committing a murder will be tried in district court, but in those cases where the judge decides where the length of the record is such that it warrants society's knowledge of what has gone on in that person's life, he should have the right to so order.

PROPOSERS: Mike McGrath, Lewis and Clark County Attorney, representing the Montana County Attorneys' Association, stated this bill was introduced at their request. Under the present system (Youth Court Act), if a youth is found to be delinquent and transferred to Pine Hills, generally upon reaching age 18, the youth is freed of the system. There are no criminal records of that crime. The problem that creates is in a particularly serious or heinous crime, the youth could be released from Pine Hills and go somewhere else, and there will be no record that follows that youth. This bill would allow transferring the youth from youth court jurisdiction to the district court following hearing and after looking at certain things. When that is done, the youth could still be sentenced to Pine Hills. The bill applies to youths 16 or older, but in cases of rape or homicide, it would allow transfer of youths age 12 and older. It is unlikely a youth would be transferred to Montana state prison. This bill allows venue to occur in the county where the youth is a resident (current law) or in the county where the delinquent act is alleged to have occurred. Bob McCarthy, Butte-Silver Bow County Attorney, testified he would also urge the committee to concur in HB 103. The bill does a couple of things: It provides for a change in the venue provisions and includes two offenses at this time where a transfer hearing could be held by a youth court where the youth court judge, after considering a number of factors, would then consider whether a youth for commission of the offense could be transferred to district court and tried there. There is a serious gap in Montana law, and Montana is in a minority position compared with other states. Recent events have pointed out that the Montana Youth Court Act does not address problems of handling particularly heinous crimes. This bill does not provide the county attorney may file an information if the youth has reached the age of 12 years. It's just an abomination that youths could commit one of these crimes, be sent to Pine Hills, be released by age 21, and not have a record. Ross Richardson, Chief Deputy County Attorney, Butte-Silver Bow, stated the important thing that should be noted is while this bill does lower the age of prosecution of juveniles for certain things, we do have a transfer hearing. Montana would then be in the mainstream in the way it treats the violent juveniles if it passes this bill. Some states allow transfer without a hearing. Many states just allow the juvenile to be bound over to district court as soon as the prosecution files the information. Jeremiah Johnson, President, Montana Probation Officers Association, stated they are in support of this bill and offered some amendments (Exhibit 11). They feel this bill should be addressed to the most heinous of all possible crimes, but they have a lot of concern over youth who could be dealt with in the youth court being tried as an adult for the crime of sexual intercourse without consent. They think it is important the violent offender at least have due process, but they also think the state should have due process. Jeff Langan stated he is not

particularly in support of this piece of legislation. Judicial decisions are not sacred. Violent crimes are often quite political, especially in small communities. When you talk about 12-year-olds being subjected to long-term trials, he is concerned. He supports pulling sexual intercourse out of the bill and believes it should be limited to those most heinous of crimes. In addition, the 12-year-old limit is not good. That age should be uplifted to 14 at the low end. Representative Paul Rapp-Svrcek stated he thinks the instances we have seen in this state in the past year are adequate justification for this bill. He is in favor of keeping sexual intercourse without consent in the bill. He believes this is an adult act and should be treated in an adult manner. He believes sexual intercourse without consent is a most heinous crime. He believes it is the most blatant of violations of a woman's body. Many women think it is worse than murder. Representative John Mercer stated he is in support of this bill and urged the committee to retain sexual intercourse without consent in it. The public is outraged when they see an adult crime committed in an adult manner. Juvenile court is not open to the public. There are many protections in this law that will prevent abuses. All the House is asking the Senate is to give the court the flexibility where rape has occurred to treat it in the same manner as an adult. Gale Kline, Women's Lobbyist Fund, submitted written testimony in support of the bill (Exhibit 12).

OPPONENTS: None.

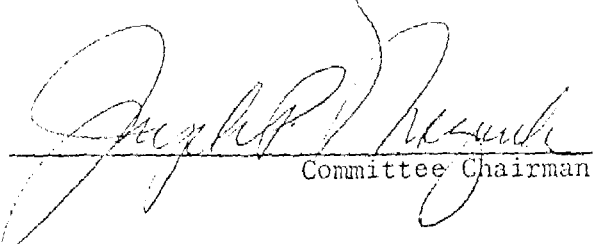
CLOSING STATEMENT: Representative Brown stated he has a difficult time arguing against the Representatives who spoke. He thinks the committee needs to discuss the issue and look at it in detail. If it decides as the House did, he can live with this bill. He worries about the cases that might arise in that area more than with homicide. He addressed the proposed amendment on page 5, line 4, changing "may" to "shall." He stated this only demands the court address all of the issues listed. He believes in making a judgment as serious as this, the court should be demanded to make those assessments.

QUESTIONS FROM THE COMMITTEE: Senator Towé addressed a question to Representative Rapp-Svrcek. He stated Section 45-5-503, MCA, includes other matters other than sexual intercourse without consent. He asked if they intended statutory rape to be included within the effect of the bill. Representative Rapp-Svrcek stated sexual intercourse without consent as used in the context of this bill should be considered in view of the language found on page 5, lines 1 and 2. Representative Mercer added he thinks there are also other protections in the bill. Representative Rapp-Svrcek pointed out the purpose of the amendment was to deal with the violent crime of rape. He stated the committee can delete the section that deals with statutory rape because that is a different thing. Senator Pineseault asked Mr. Richardson if there were an age

limit imposed. Mr. Richardson responded a good number of the states have no age limit at all, but in no case is it above age 14. Senator Pinsoneault asked if he'd like the age limit out of the bill. Mr. Richardson stated he had no problem with the age limit. Senator Pinsoneault addressed a question to Mr. Langan, who voiced some opposition to the subject of sexual intercourse without consent. He asked what he felt about this in light of the previous discussion. Mr. Langan stated children deserve the same benefit of the doubt as adults. Senator Pinsoneault asked Mr. Langan what commission he served on. Mr. Langan responded he serves on the Montana Youth Justice Council, but he is not representing the council in making his statements with regard to this bill. Senator Blaylock stated Mr. McGrath indicated one of the reasons they should allow these cases to go to court is the matter of the record. He asked if the juvenile could possibly go to prison. Mr. McGrath responded theoretically yes, but practically no. Senator Blaylock asked if the youth court could send a juvenile to prison. Mr. McGrath responded no. Senator Blaylock asked if a juvenile could be released from Miles City and then sent to prison. Mr. McGrath responded no. Senator Blaylock asked if a youth could be released and tried again. Mr. McGrath responded no. Senator Blaylock asked if under this bill a youth could be sentenced to prison for life. Mr. McGrath responded yes. Representative Brown responded there are three categories of criminal homicide: deliberate homicide, mitigated deliberate homicide, and negligent homicide. Negligent homicide was left to apply to ages 16 and over.

Hearing on HB 103 was closed.

There being no further business to come before the committee, the meeting was adjourned at 12:02 p.m.


Committee Chairman

COMMITTEE ON

DATE

January 7, 1985

Judiciary

HB 52, 103 & SB 268

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jayne Conner	Butte-Silver Bow	HB 52	with amend	
Barbara J. Pauls	Butte-Silver Bow	HB 52	with amendment	
Jane E. Wright	Butte-Silver Bow	HB 52	with amendment	
Mark Lurich	Butte-Silver Bow	HB 52	with amendment	
Linda Madril Burns	Butte-Silver Bow	HB 52	with amendment	
Sen. O. D. Lynch	Senate Dist #39	HB 52	with amendment	
Charles R. Reed	Butte-Silver Bow	HB 52	with amendment	
Dave Brown	Butte-Silver Bow #72	HB 103	✓	
Lisa Feiger	Center for Adolescent Dev	HB 52	with amendment	
Dusan C. O'Haniam	ACIU	SB 268	✓	
Louise Griffith	PRESENT - CHEMIST AWARENESS SELF	HB 52	with amend.	
Charles E. Reed	Butte-Silver Bow	HB 103	✓	
Carthy Campbell	Mt. Assn of Churches	SB 268	✓	
JEREMIAH JOHNSON	MT. PROBATION OFFICERS ASSOC.	HB 103	✓	
JEFFREY M. LANGAN	MT. YOUTH JUSTICE COUNCIL	SB 268 HB 103	✓	
Craig J. Anderson	Mt. Youth Justice Council	SB 268	X	
D.L. "Tote" Howard	Teton County Sheriff	HB 52 SB 268	X	
W. L. Hammermeister	Pondley & Shepp	HB 52 SB 268	✓	
Ed Hall	MBCC	HB 52 SB 268	✓	
Marie McGee	MACC	SB 268	✓	
Marin Oye	Board of Circulated	SB 268	✓	
Mike McRath	CITY ATMS ASSOC	HB 103	✓	
ART CRASHAW	INSTITUTIONS		✓	
MIKE MALE	SELF	HB 52	✓	
Paul Kline WLF	WLF	HB 103	✓	
Mike McRath	Chemical Dep. Program of 7th	HB 52	✓	

(Please leave prepared statement with Secretary)

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Rep. PAUL RAPP-SURCEK	Self	103	X	
Rep. Kurt Krueger		103	without	
Rep. John A. Mercer	House District 50	103	X	
GARY LOSHESKY	JUV. PROBATION ANACONDA	268 103 52	X	
Dave Deppmons	" " Hamilton	"	X	
ALLEN HORSFALL	" " "	"	X	
Steve Nelson	Board of Crime Control	52 268		

(Please leave prepared statement with Secretary)

MONTANA PROBATION OFFICERS ASSOCIATION

PROPOSED ADMENDMENTS TO HOUSE BILL 103

1. Page 1, Line 11
Strike: "Sexual Intercourse Without Consent"
2. Page 3, Lines 10 and 11
Strike: "Sexual Intercourse Without Consent as
defined in 41-5-503,"
3. Page 5, Line 4
Strike: "Shall"
Insert: "May"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 11

DATE 02 07 85

BILL NO. H.B. 103

February 7, 1985

Testimony of the Women's Lobbyist Fund by Gail Kline, before
the Senate Judiciary Committee on HB 103

Mr. Chairman and members of the Judiciary Committee:

For the record my name is Gail Kline, representing the
Women's Lobbyist Fund (WLF). I am here to support inclusion
of the crime of rape as a serious crime in HB 103.

Rape is a crime of violence. Rapists are usually repeat
offenders. Convicted rapists may learn to avoid future
convictions by murdering their victims.

Youthful rapists are impressionable, and still have the
chance to become rehabilitated. Adequate treatment programs,
including counseling, education and psychological help, may
be able to turn a young rapist into a productive citizen.
But in order to be effective, the programs must be completed
by the offender. Youths should not be released solely upon
reaching the age of 21, whether or not they are
rehabilitated. A thorough evaluation should be conducted at
that time to determine whether the youth is in need of
further treatment --or even institutionalization in an adult
prison.

The Women's Lobbyist Fund does not support the notion of
sending youth to prison for any crime. However, we believe
certain crimes are serious enough to warrant re-evaluation at
the age of 21 to determine whether the individual should be
released into society, or whether further treatment or
institutionalization is necessary. The crime of rape is
sufficiently violent to require this type of evaluation.

The Women's Lobbyist Fund urges the committee to support
inclusion of rape in HB 103.

Written by Laurie Lanson

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 12
DATE 02-07-85
BILL NO. H.B. 103

Senator Towe agreed an interim committee would assure some type of action by the next Legislative Session. Senator Crippen moved that SB128 BE TABLED. The motion carried by roll call vote with Senators Blaylock, Shaw and Mazurek voting in opposition.

FURTHER CONSIDERATION OF SB200: Senator Crippen withdrew his motion that SB200 DO PASS in order that the committee could review proposed amendments submitted by Mr. Greg Petesch (Exhibit 1). Senator Towe did not agree with the proposed amendment (2). Senator Towe stated there is no provision to appeal summary judgment once a judge has denied the request. Senator Towe feels an appeal of summary judgment should be allowed. Senator Mazurek disagreed stating the appeal should be from final judgment. The committee agreed they would work on the amendments at a later date.

CONSIDERATION OF SB245: Senator Pinsoneault opened the hearing on SB245 in Senator Story's absence. Senator Pinsoneault informed the committee that SB245 will aid persons trying to collect on a judgment. This legislation will enable a judge to inquire as to the financial status of the debtor and determine whether the debtor can or cannot pay the judgment.

There being no proponents and no opponents, the hearing on SB245 was opened to questions from the committee.

Senator Daniels stated the financial status of the debtor is able to be determined by submitting interrogatories.

ACTION ON SB153: Senator Pinsoneault moved that SB153 BE TABLED. The motion carried.

ACTION ON HB52: Senator Pinsoneault moved amendments 1 and 3 of Mike Male's proposed amendments (Exhibit 2) BE ADOPTED. The motion carried. Senator Brown moved that HB52 BE CONCURRED IN AS AMENDED. The motion carried.

(OK) Further Consideration of
ACTION ON HB103: Senator Towe moved that the word "shall" on page 5, line 4, be changed to "may." The motion carried. Senator Towe moved to strike "sexual intercourse without consent" from the bill. The motion carried with Senators Brown, Pinsoneault and Yellowtail voting in opposition. Senator Shaw moved that HB103 BE CONCURRED IN AS AMENDED. However, because of Senator Blaylock's concerns that a youth of 14 years of age could be sent directly to the Montana State Prison rather than being transferred from a youth home upon 21 years of age, Senator Shaw withdrew his motion.

(Type in committee name, secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 021185 Bill No. HB103 Time _____

NAME	YES	NO
Senator Chet Blaylock	✓	
Senator Bob Brown		✓
Senator Bruce D. Crippen		
Senator Jack Galt		
Senator R. J. "Dick" Pinsoneault		✓
Senator James Shaw	✓	
Senator Thomas E. Towe	✓	
Senator William P. Yellowtail, Jr.		✓
Vice Chairman		
Senator M. K. "Kermit" Daniels		
Chairman		
Senator Joe Mazurek	✓	

Secretary _____

Chairman _____

Motion: To remove reference to "sexual
intercourse" from bill

(include enough information on motion—put with yellow copy of committee report.)

ACTION ON SB 245: Mr. Petesch stated the information required in this bill would be available in discovery or in the writ of assistance or writ of attachment. Senator Pinsoneault questioned whether this applied if your judgment came out of justice court instead of district court. Senator Towe responded he thinks there is a reference in the justice court statutes to the rules of civil procedure in district court. Senator Crippen moved SB 245 be recommended DO PASS. The motion carried with Senators Brown, Crippen, Galt, Pinsoneault, and Yellowtail voting in favor and Senators Blaylock, Daniels, Shaw, and Towe voting in opposition.

ACTION ON HB 103: Amendments to HB 103 were distributed to the committee (See Exhibit 1). Mr. Petesch stated the committee has adopted all of the amendments on the attached Exhibit 1 except the last one, which is one Senator Pinsoneault requested be looked into. Senator Towe moved amendment No. 4 be adopted. The motion carried unanimously. Senator Pinsoneault moved HB 103 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Crippen voting in opposition.

ACTION ON SB 267: Mr. Petesch stated Representative Bergene has a comprehensive bill revising the exemptions that has not yet been introduced. Senator Daniels stated the chair would entertain a motion to lay the matter on the table pending introduction of Representative Bergene's bill. Senator Towe stated if we lay this bill on the table, it will effectively be dead due to the close proximity of the transmittal deadline. He believes there is some merit in the bill. Senator Towe moved that SB 267 be recommended DO PASS. The motion carried with Senators Daniels and Galt voting in opposition.

CONSIDERATION OF SB 184: Senator Tom Towe introduced SB 184 due to Senator Joe Mazurek's absence from the hearing. Senator Mazurek was presenting a bill to the State Administration Committee and was unable to present SB 184 on his own behalf. Senator Towe stated this bill simply repeals the sunset provision in the language the legislature adopted last session. The language we adopted last session amended that section because of the law on sovereign immunity. One of the cornerstones of that law is that only general damages will be allowed. That meant only those monetary damages you can put a finger on. The supreme court ruled that was unconstitutional, and we cannot deny the other intangible damages. The 1983 legislature put in a limit of \$1 million. It also put in a sunset provision until June 30, 1985. This bill repeals the sunset provision. Senator Towe stated he understands the bill has been working quite well. It has meant an enormous increase in damages paid out. If we took the limit off, we would be paying out a lot more. The feeling of the legislature is that ought to be sufficient. He thinks it would be wise to continue the existing provision by repealing the sunset provision.

limitations in existence, the legislature and the people of the state of Montana need to be fully aware of the populations they have at risk. (See written testimony from Gordon Morris, Executive Director of the Montana Association of Counties, attached as Exhibit 2.) (See written testimony from Jim Nugent, of the City of Missoula, attached as Exhibit 3.)

OPPONENTS: Karl Englund, representing the Montana Trial Lawyers Association, presented a letter from Erik Thueson (see Exhibit 4). Mr. Thueson was the plaintiff's attorney in the White case. Mr. Englund stated there are potential constitutional problems with a limitation on judgments against public entities and the denial of equal protection. The sunset rather than being repealed should instead be at a later date, particularly because of the rising cost of medical costs which may be appropriate today but may not be in a few years. They suggested we resunset it for two years down the road.

CLOSING STATEMENT: Senator Mazurek stated the White decision was a 4 to 3 decision. He would resist an effort to reinsert the sunset. He believes we can review the ceiling as costs go up.

QUESTIONS FROM THE COMMITTEE: None.

Hearing on SB 184 was closed.

RECONSIDERATION OF HB 103: Chairman Mazurek stated a concern had been brought to him by Senator VanValkenburg regarding this bill. It has a particular impact in the larger counties, such as Yellowstone, Missoula, and possibly Lewis and Clark. The law states each district will designate one judge as the youth court judge. That has become a problem in Missoula where youth court matters take up nearly all of one judge's time. Senator VanValkenburg has asked the committee to change the bill to add that the district shall designate one or more youth court judges. Senator Blaylock moved that the committee reconsider its action on HB 103 for purposes of amendment. The motion carried unanimously. Senator Shaw moved HB 103 be amended as requested. The motion carried with Senator Crippen voting in opposition. Senator Pinsoneault moved that HB 103 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Crippen voting in opposition.

ACTION ON SB 184: Senator Shaw moved that SB 184 be recommended DO PASS. Senator Towe stated it has been working well, so there is no need to put in a sunset that may be overlooked. Senator Mazurek stated we are more liberal in our state statutes and in general immunity than other states. The motion carried unanimously.

1. Title, line 11.
Following: "OF"
Strike: "SEXUAL INTERCOURSE WITHOUT CONSENT"

2. Title, line 14.
Following: "SECTIONS"
Insert: "41-5-201,"
Following: "41-5-204"
Insert: ","

3. Page 1, line 18.
Insert: "Section 1. Section 41-5-201, MCA, is amended to read:

41-5-201. Youth court judge. (1) Each judicial district in the state shall have at least one judge of the youth court. His duties shall be to:

(a) appoint and supervise qualified personnel to staff the youth division probation departments within the judicial district;

(b) conduct hearings on youth court proceedings under this chapter;

(c) perform any other functions consistent with the legislative purpose of this chapter.

(2) In each multijudge judicial district the judges shall, by court rule, designate one or more of their number to act as youth court judge in each county in the judicial district for a fixed period of time. Service as youth court judge may be rotated among the different judges of the judicial district and among the individual counties within the judicial district for given periods of time. Continuity of service of a given judge as youth court judge and continuity in the operation and policies of the youth court in the county having the largest population in the judicial district shall be the principal consideration of the rule."

Renumber: all subsequent sections

4. Page 3, line 10.
Following: "constitute"
Strike: remainder of line 10 through "41-5-503," on line 11

3. Page 5, line 4.
Following: "may"
Strike: "SHALL"
Insert: "may"

4. Page 6, line 21.
Following: "proper"
Insert: "; however, no youth under 16 years of age may be confined in the state prison"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 02/28/5
BILL NO. HB 103

STANDING COMMITTEE REPORT

Page 1 of 2

February 12

1935

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 193

third reading copy (blue)
color

(SENATOR DANIELS)

REVISE YOUTH COURT JURISDICTION-YOUTH HOMICIDE TRIABLE IN DISTRICT COURT.

Respectfully report as follows: That HOUSE BILL No. 193

be amended as follows:

1. Title, line 11.

Following: "OF"

Strike: "SEXUAL INTERCOURSE WITHOUT CONSENT"

2. Title, line 14.

Following: "SECTIONS"

Insert: "41-5-201,"

Following: "41-5-204"

Insert: ","

RECEIVED

RECEIVED

CONTINUED

Chairman.

HOUSE BILL NO. 103

3. Page 1, line 13.

Insert: "Section 1. Section 41-5-201, MCA, is amended to read:

41-5-201. Youth court judge. (1) Each judicial district in the state shall have at least one judge of the youth court. His duties shall be to:

(a) appoint and supervise qualified personnel to staff the youth division probation departments within the judicial district;

(b) conduct hearings on youth court proceedings under this chapter;

(c) perform any other functions consistent with the legislative purpose of this chapter.

(2) In each multijudge judicial district the judges shall, by court rule, designate one or more of their number to act as youth court judge in each county in the judicial district for a fixed period of time. Service as youth court judge may be rotated among the different judges of the judicial district and among the individual counties within the judicial district for given periods of time. Continuity of service of a given judge as youth court judge and continuity in the operation and policies of the youth court in the county having the largest population in the judicial district shall be the principal consideration of the rule."

Renumber: all subsequent sections

4. Page 3, line 10.

Following: "constitute"

Strike: remainder of line 10 through "41-5-503," on line 11

3. Page 5, line 4.

Following: "may"

Strike: "SMALL "

Insert: "may"

4. Page 6, line 21.

Following: "proper"

Insert: "; however, no youth under 16 years of age may be confined in the state prison"

AND AS AMENDED BE CONCURRED INSO PASSED
IN SENATE

Senator Joe Mazurek, Chairman

STATUS SHEET

FORTY-NINTH

LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 4	1/7/85	1/8/85	1/8/85			1/8/85			
HB 16	1/7/85	1/22/85							
HB 17	1/7/85	2/14/85 2/22/85	2/22/85		2/22/85				
HB 40	1/7/85	1/28/85	2/20/85		2/13/85				
HB 47	1/7/85	(died in committee)							
HB 48	1/7/85	(died in committee)							
HB 50	1/7/85	1/10/85 1/11/85	1/11/85		1/11/85				
HB 53	1/7/85	1/14/85	1/17/85	(TRANSFERRED TO LOCAL GOVERNMENT)					
HB 69	1/7/85	1/10/85 1/11/85 1-26-85	(TABLED - 1/11/85)	1/25/85					
HB 83	1/7/85	1/11/85 1/8/85	1/11/85	1/11/85					
HB 88	1/7/85	1/14/85 1/17/85	1/17/85			1/17/85			
HB 95	1/7/85	1/16/85 2/20/85	2/20/85		2/20/85	(AS AMENDED)			
HB 103	1/7/85	1/9/85 1/15/85	1/15/85			1/15/85			
HB 106	1/7/85	1/10/85 1/11/85	1/11/85	(WITHOUT RECOMMENDATION)					
HB 109	1/7/85	1/8/85	1/8/85	1/8/85					
HB 111	1/7/85	1/22/85	1/22/85			1/22/85			

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 9, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Wednesday, January 9, 1985 at 8:00 a.m. in room 312-3 of the State Capitol Building.

ROLL CALL: Roll call was taken, all members being present.

HOUSE BILL NO. 115: Hearing commenced on House Bill 115 (Public access to death certificates - protection of living persons' privacy). The chief sponsor, Representative Joan Miles, appeared before the committee and offered testimony. She informed the committee that the bill was drafted on request of the Department of Health and Environmental Sciences. She briefly reviewed the intent of the bill stating that it would amend section 50-15-112 in that it would allow the applicant who has a direct and tangible interest in the data recorded to obtain said information when the information is necessary for the determination of personal or property rights of the deceased and if the privacy of living persons is not jeopardized by such access.

John Wilson from the Bureau of Records and Statistics, Department of Health and Environmental Sciences, spoke in support of the bill. Mr. Wilson informed the committee that the Bureau has been cooperating with the National Death Index for a number of years.

Steve Perlmutter from the legal division of the Department of Health and Environmental Sciences, spoke in support of the bill. He pointed out the constitutional problems the Department has been having with the current statute in balancing the right to know against the right to privacy. He said that when a person dies, the right of privacy terminates under the present law. This bill would attempt to bring the statutes in line with the constitution by making death certificates available to the public if the privacy of living persons is not jeopardized.

There being no further proponents or opponents of the bill, Representative Miles closed.

HOUSE BILL NO. 103: (Revise youth court jurisdiction - youth homicide triable in District Court). Representative Dave Brown, House District #72, chief sponsor, appeared and offered testimony. Basically, this bill is two-fold in that it would allow for changes with regard to the venue portion of youth court proceedings and allow youths to be tried for the offense of deliberate homicide and mitigated deliberate homicide regardless of age in district court.

Mike McGrath, county attorney for Lewis and Clark County, testi-

fied in support of HB 103. He informed the committee that this bill was submitted by Representative Brown on request of the county attorneys. He stated that this bill would allow in the case of a deliberate homicide or mitigated deliberate homicide offense that the district judge would be able to consider a number of factors outlined in the bill. The district judge would be able to transfer the youth from juvenile court to district court if conditions were met as outlined more fully in the bill.

This bill would also allow that a youth be transferred from Pine Hills School for Boys to the Montana State Prison when the youth reaches the age of majority. The bill would also allow actions charging youths to be brought not only in the county of residence but also in the county where the offense was committed.

Bob McCarthy, county attorney for Butte-Silver Bow, also testified in support of the bill. He stated that the bill would simply allow the Court to conduct a transfer hearing.

Brian Holland, deputy county attorney from Butte-Silver Bow, also commented on the bill. He mentioned several states that do not have an age limitation regarding the age the youth who commits a crime. He, too, felt that the Court should be able to have the option of looking at individual cases and deciding what to do with them.

Chairman Hannah asked for any opponents testimony to be presented. Carl Englund, an attorney representing the Montana Trial Lawyers Association, testified in opposition to the bill. Mr. Englund stated that he didn't have any problem with the venue part of the bill, but he was concerned about allowing the transfer of youths to district court at any age. His further considerations were whether or not Montana State Prison would have the facility to hold youths and whether or not Pine Hills School for Boys would also have the facility to retain youths after they reach the age of majority. He pointed out that he felt it was ironic that this bill was being considered today while House Bill 69 (admissibility of statements of minor victim of abuse or molestation) will be heard tomorrow. In addition, Mr. Englund cautioned the members not to act on emotional reactions due to certain heinous crimes that happened in Butte-Silver Bow last year.

There being no further opponents to the bill, Representative Brown closed with a brief summarization. He informed the members that the opportunity does exist for a six year old to be tried in adult court, but he feels the chance of this happening is very unlikely. He stated that what the bill will do is give judicial discretion where it is appropriate. Representative Brown commented on the institutional problem this bill may create.

He informed members of the committee that he planned to submit a resolution addressing this problem.

Chairman Hannah opened the meeting up for discussion on HB 103. Representative Addy stated he was concerned about including a youth who has been charged with mitigated deliberate homicide in the bill. Mr. McCarthy addressed this question and stated that this is typically raised as the defense. Representative Addy felt the mitigated deliberate homicide part should be deleted from the bill altogether.

Mr. McGrath explained why the county attorneys included the mitigated deliberate homicide portion of the bill. He felt the bill would provide for the following: for a heinous crime committed, and it would insure that mitigated deliberate homicide could be a lesser included offense. He did state that he would be willing to exclude the mitigated deliberate homicide portion of the bill.

Representative Krueger raised a question with regard to the minimum age as defined in Section 2(a) of the bill. It was Mr. McCarthy's opinion that it was more arbitrary to place a minimum age in the bill. He feels that the Court should have the freedom to make the appropriate determination. He also stated that he felt that in some cases, the youths themselves would be better handled as an adult.

Representative Bergene directed a question to Nick Rotering, attorney from the Department of Institutions, regarding the institutional problems of handling youths. In regards to security issues, Mr. Rotering stated that he has been able to deal with youths effectively in the past.

ADJOURN: There being no further business at this time, the meeting was adjourned at 9:00 a.m. by Chairman Hannah.


TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/9/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

VISITOR'S REGISTER

HOUSE JUDICIARY

COMMITTEE

BILL House Bills 103 and 115

DATE 1/9/85

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

the participation of spectators, the sport couldn't continue. Therefore, he feels the spectators should be held accountable for their part in the crime.

There being no further discussion, hearing was closed on HB 155.

EXECUTIVE SESSION:

An executive session was called at 9:30 a.m. by the chairman to act on House Bills 155 and 103.

ACTION ON HB 155: Representative Rapp-Svrcek moved that HB 155 DO PASS. The motion was seconded by Representative Darko. Discussion followed. Representative Hannah questioned whether or not spectators should be charged with a felony. Representative Rapp-Svrcek felt very strongly that the felony provision should be left in the bill. Both Representatives Eudaily and Gould felt the felony provision should be left as is even when it involves the spectator. Representatives Addy and Grady also felt that because spectators are a part of the dogfighting scheme, they should be held accountable as well. The question was called and a roll call vote taken. Motion carried with Representative Dave Brown dissenting. (Representative Keyser was not present for this particular vote.)

ACTION ON HB 103: Representative Brown moved that HB 103 DO PASS. The motion was seconded by Representative Hannah and discussed. Representative Brown submitted three amendments. His first amendment would basically change a drafting mistake in the bill. The proposed amendment is as follows:

1. Page 3, line 1.

Following: "(a)"

Insert: "(i)"

2. Page 3, line 5.

Following: "adult;"

Insert: "or"

3. Page 3, line 6.

Strike: "(b)"

Insert: "ii"

Reletter subsequent subsections

4. Page 3, line 23.

Strike: (1)(a)(i) through (1)(a)(ix)

Insert: (1)(a)(ii)(A) through (1)(a)(ii)(J)

Representative Brown moved that the above amendments be adopted. The motion was seconded by Representative Miles, and a roll call vote taken. Motion carried unanimously.

Representative Brown moved that a further amendment be adopted. Motion was seconded by Representative Gould. The motion is as follows:

1. Title, line 8.

Following: "YOUTH"

Insert: "12 YEARS OF AGE OR OLDER"

2. Page 3, line 1.

Following "à"

Insert: "the youth charged was 12 years of age or more at the time of the conduct alleged to be unlawful and"

3. Page 3, line 2.

Following: "youth"

Strike: ", regardless of age,"

There being no discussion on this particular motion, the question was called and a roll call vote taken. The motion carried unanimously.

Representative Brown further moved the following amendment be adopted. Motion was seconded by Representative Gould and is as follows:

1. Title, line 10.

Strike: "OR"

Insert: ", "

Following: "HOMICIDE"

Insert: ", ATTEMPTED DELIBERATE HOMICIDE, OR ATTEMPTED MITIGATED DELIBERATE HOMICIDE"

2. Page 3, line 3.

Following: "45-5-102"

Strike: "or"

Insert: ", "

3. Page 3, line 4.

Following: "45-5-103"

Insert: ", or attempt as defined in 45-4-103 of either deliberate or mitigated deliberate homicide"

Discussion followed as to Representative Brown's reason for this particular amendment. He felt that attempted deliberate homicide and attempted mitigated deliberate homicide are also crimes that should be triable in a district court. Representative Miles stated that she feels this language should also be included in the title of the bill and that the "regardless of age" language should be deleted from the title of the bill. The committee

accepted Representative Miles recommendation.

Representative Krueger stated his opposition to the amendment.

It was Representative Gould's opinion that the latest amendment proposed by Representative Brown, is indeed, a very good amendment. Representative Keyser supports the amendment and said he can't see a problem with the attempted deliberate homicide or attempted mitigated deliberate homicide language. He feels that the insertion would strengthen our handle over juveniles in the gray areas. It would enable the court to handle these matters at its own discretion. He stated further that he feels this would not be abused in the slightest.

Representatives Montayne and Mercer voiced their support for this amendment. Representative Mercer said that this act would give the courts discretion. He said there are all kinds of precautions included in the bill. The question was called, and a roll call vote taken. Motion passed 16 to 2.

Representative Montayne moved that on page 4, line 17, the word "may" be stricken and the word "shall" be inserted in lieu thereof. The motion was seconded by Representative Rapp-Svrcek and carried unanimously.

Representative Mercer submitted to the committee a list of his proposed amendments to HB 103. He divided them up into three amendments: the first amendment dealing with 4., 5., and 6.; the second amendment dealing with 7., 8., and 9; the third amendment dealing with 10. See copy marked Exhibit C.

Representative Mercer moved that the part including five additional crimes be adopted into the bill. The motion was seconded by Representative Rapp-Svrcek and discussion followed. The reason Rep. Mercer wished to add these additional crimes is because he feels these crimes are crimes against people and should be included in the bill because they differ from the typical juvenile crimes. He thinks the court should have the discretion to decide whether or not a juvenile should be tried and punished as an adult. He feels this addition would expand the act to give more discretion to the court.

Representative Brown stated his strong opposition to the amendment proposed by Rep. Mercer. He, in particular, was opposed to adding aggravated assault to the bill in addition to sexual intercourse without consent.

It was Rep. Montayne's opinion that this amendment would not be necessary in that he feels there are too many statutes in the books now. He said it would make this bill into a mishmash.

Representative Miles expressed her opposition to the amendment. She feels that we are getting beyond the original intent of the bill.

Representative Rapp-Svrcek spoke in favor of the amendment. He feels the populace has become increasingly upset over the lack of discipline in our society. He feels that youths are aware of what they are doing when they commit these violent crimes and should be handled as adults. Adding these crimes to the Youth Court Act would provide a great deterrent and would help to create some responsibility among the youth of this state. Representative Mercer made a closing statement in support of his amendment.

Representative Mercer made a substitute motion at this time to delete from his proposed amendment the portion dealing with aggravated assault as defined in 45-5-202. Likewise, 8. and 9. would be deleted in its entirety. The motion was seconded by Representative Brown, and a roll call vote taken. Motion carried with Rep. Gould dissenting.

In favor of the original motion, Representative Hannah stated that these were crimes against people and should be considered. Representative Keyser felt the bill should be kept as uncluttered as possible. With that, a roll call vote was taken, and the motion to adopt Rep. Mercer's second amendment failed 10 to 8.

Representative Mercer moved that the following amendment be adopted. The motion was seconded and unanimously carried:

Page 1, line 24.
Following: "~~any~~"
Delete: "either"
Insert: "any"

Page 2, line 2.
Following: "found;"
Delete: "or"

Page 2, following line 4.
Insert: "(b) the county in which the youth is alleged to have violated the law;"

Reletter subsequent subsections

Representative Mercer further moved that his third amendment be adopted. The motion was seconded by Representative Rapp-Svrcek and discussion was opened. The proposed language is:

Page 4, line 7.
Following: "finds"
Strike: remainder of line 7 through "believe" on line 9.
Insert: "that there is clear and convincing evidence"

Representative Keyser disagreed with the proposed language. He feels that the language is not needed. Representative Brown agreed with Representative Keyser in this regard. He said this particular section pertains to all of the preceding sections. The question was called and a roll call vote taken. The motion failed 12 to 6.

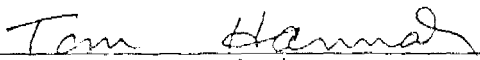
Representative Addy moved to exclude any and all references made to "mitigated deliberate homicide and attempted mitigated deliberate homicide" from the bill. Representative Krueger seconded the motion and discussion followed. Representative Addy explained that in order to be charged with mitigated deliberate homicide, a person who committed the act, would have to be under extreme mental and emotional stress. He feels that youths and adults should be treated differently under this charge.

Representative Brown strongly opposes Representative Addy's amendment to exclude. Representative Rapp-Svrcek also stated his opposition to the amendment. He feels there are adequate precautions set forth in the act. Representative O'Hara feels that if this amendment were adopted, plea bargaining would be more common on the more serious charge.

The question was called and a roll call vote was taken with the motion failing 16 to 2.

Representative Keyser moved that HB 103 DO PASS AS AMENDED. The motion was seconded by Representative Brown and carried unanimously. A roll call vote was taken on this motion.

ADJOURN: A motion having been made and seconded, the meeting was adjourned at 11:35 a.m.


TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-15-85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. HB 103 TIME 10:10

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudally	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser		
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Brown moved for the following amendment. It was seconded by Rep. Miles:

1. Page 3, line 1

Following: "(a)"

Insert: "(i)"

2. Page 3, line 5

Following: "adult;"

Insert: "or"

3. Page 3, line 6,

Strike: "(b)"

Insert: "ii"

Reletter subsequent subsections

4. Page 3, line 23

Strike: (1)(a)(i) through (1)(a)(ix)

Insert: (1)(a)(ii)(A) through (1)(a)(ii)(J)

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. 103 TIME 10:15

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Brown moved the following amendment. It was seconded by Rep. Gould:

1. Title, line 8
Following: "YOUTH"
Insert: "12 YEARS OF AGE OR OLDER"

2. Page 3, line 1
Following "(2)"
Insert: "the youth charged was 12 years of age or more at the time of the conduct alleged to be unlawful and"

3. Page 3, line 2
Following: "youth"
Strike: ", regardless of age,"

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85

BILL NO. 103

TIME 10:40

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montavne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Brown moved that the following amendment be adopted.

Motion was seconded by Representative Gould and carried 16 to 2.

1. Title, line 10

Strike: "OR"

Insert: ", "

Following: "HOMICIDE"

Insert: ", ATTEMPTED DELIBERATE HOMICIDE, OR ATTEMPTED MITIGATED
DELIBERATE HOMICIDE"

2. Page 3, line 3

Following: "45-5-102"

Strike: "or"

Insert: ", "

3. Page 3, line 4

Following: "45-5-103"

Insert: ", or attempt as defined in 45-4-103 of either deliberate
or mitigated deliberate homicide"

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. 103 TIME 11:05

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould		✓
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Substitute motion made by Mercer.
Seconded by Rep. Brown. The motion had to deal with
 deleting the aggravated assault portion (c) from his proposed amendment
 #2. Likewise, nos. 8 and 9 in their entirety would also be deleted.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85

BILL NO. 703

TIME 11:10

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer	✓	
Joan Miles		✓
John Montayne		✓
Jesse O'Hara	✓	
Bind Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)	✓	

Marcene Lynnn
Secretary

Tom Hannah
Chairman

Motion: Rep. Mercer moved that the following amendment be made. The motion was seconded by Rep. Rapp-Svrcek:

Page 3, lines 1 through 5

Strike: subsection (a) in its entirety

Insert: "(a)(1) the youth charged was 12 years of age or more at the time of the conduct alleged to be unlawful and the unlawful act is one of the following:

- (A) deliberate homicide as defined in 45-5-102;
- (B) mitigated deliberate homicide as defined in 45-5-103;
- (C) sexual intercourse without consent as defined in 45-5-503;
- (D) aggravated kidnapping as defined in 45-5-303; or"

Motion failed 10 to 8.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85

BILL NO. 103

TIME 11:25

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb		✓
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould	✓	
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles		✓
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Representative Mercer moved that the following amendment be adopted. Motion was seconded by Rep. Rapp-Svrcek and failed 12-6.

Page 4, line 7

Following: "finds"

Strike: remainder of line 7 through "believe" on line 9.

Insert: "that there is clear and convincing evidence"

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE _____ BILL NO. _____ TIME 11:33

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene		✓
John Cobb		✓
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer		✓
Joan Miles		✓
John Montayne		✓
Jesse O'Hara		✓
Bing Poff		✓
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Addy moved to exclude any and all references made to
"mitigated deliberate homicide and attempted mitigated deliberate
homicide" from the bill. The motion was seconded by Rep. Krueger
and failed 16 to 2.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-14-85 BILL NO. 103 TIME 11:34

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Representative Keyser moved that HB 103 DO PASS AS AMENDED.

MOTION was seconded by Rep. Brown and carried unanimously.

STANDING COMMITTEE REPORT

January 15 1912

Page 1 of 2

MR. Speaker:

We, your committee on Judiciary

having had under consideration House Bill No. 103

first reading copy (white color)

REVISE YOUTH COURT JURISDICTION-
YOUTH HOMICIDE TRIABLE IN DISTRICT COURT

Respectfully report as follows: That House Bill No. 103

BE AMENDED AS FOLLOWS:

1. Title, line 6.
Following: "FOR"
Insert: "INITIAL"

2. Title, line 8.
Following: "YOUTH"
Insert: "17 YEARS OF AGE OR OLDER"

3. Title, line 10.
Strike: "OR"
Insert: "AND"
Following: "HOMICIDE"
Strike: "REGARDLESS OF AGE"
Insert: "ATTEMPTED DELIBERATE HOMICIDE, OR ATTEMPTED
MITIGATED DELIBERATE HOMICIDE"

DOUGLASSX

DR-11/10/85

CONTINUED

4. Page 1, line 24.

Following: "and"

Strike: "either"

Insert: "or"

5. Page 2, line 2.

Following: "found;"

Strike: "or"

6. Page 2, following line 4.

Insert: "(b) the county in which the youth is alleged to have violated the law; or"

Relators: Subsequent subsection

7. Page 2, line 1.

Following: "(a)"

Insert: "(1) The youth charged was 12 years of age or more at the time of the conduct alleged to be unlawful and"

Following: "age"

Strike: "child" through "age," in line 2.

8. Page 2, line 2.

Following: "45-4-103"

Strike: "or"

Insert: "and"

9. Page 2, line 4.

Following: "45-4-103"

Insert: ", or the intent, as defined in 45-4-103, of either deliberate or mitigated deliberate homicide"

10. Page 2, line 5.

Following: "adult;"

Insert: "or"

11. Page 2, line 6.

Strike: "(b)"

Insert: "(1)"

Relators: Subsequent subsections

12. Page 2, line 13.

Strike: "(1)(a)(i)"

Insert: "(1)(a)(i)(A)"

Strike: "(1)(a)(ii)"

Insert: "(1)(a)(i)(B)"

13. Page 4, line 17.

Following: "the court"

Strike: "may"

Insert: "shall"

AND AS AMENDED,
DO PASS

GR 11/1/85

STATE PUB. CO.
Helena, Mont.

REPRESENTATIVE KANNA: Chairman.

PROPOSED AMENDMENTS TO HB 103

REP. MERCER'S PROPOSED
AMENDMENTS TO HB 103
Exhibit C
1-15-85

1. Title, line 8
Following: "YOUTH"
Insert: "12 YEARS OF AGE OR OLDER"

2. Title, line 9
Following: "THE"
Strike: "OFFENSE"
Insert: "OFFENSES"

3. Title, line 10
Strike: "OR"
Insert: ", "

Following: "HOMICIDE"
Insert: ", AGGRAVATED ASSAULT, SEXUAL INTERCOURSE WITHOUT CONSENT,
OR AGGRAVATED KIDNAPPING"

4. Page 1, line 24
Following: "any"
Delete: "either"
Insert: "any"

5. Page 2, line 2
Following: "found;"
Delete: "or"

6. Page 2, following line 4
Insert: "(b) the county in which the youth is alleged to have
violated the law;"

Reletter subsequent subsections

7. Page 3, lines 1 through 5
Strike: subsection (a) in its entirety
Insert: "(a)(i) the youth charged was 12 years of age or more at
the time of the conduct alleged to be unlawful and the
unlawful act is one of the following:
(A) deliberate homicide as defined in 45-5-102;
(B) mitigated deliberate homicide as defined in 45-5-103;
(C) ~~aggravated assault as defined in 45-5-202;~~
(D) sexual intercourse without consent as defined in
45-5-503;
(E) aggravated kidnapping as defined in 45-5-303; or"

8. Page 3, line 12
Delete: subsection (iii) in its entirety

Page 3, lines 16-19
Delete: subsections (vi) and (vii) in their entirety

Relletter subsequent subsections

9. Page 3, line 23
Strike: "(1)(a)(i) through (1)(a)(ix)"
Insert: "(1)(a)(ii)(A) through (1)(a)(ii)(F)"

10. Page 4, line 7.

Following: "finds"

Strike: remainder of line 7 through "believe" on line 9.

Insert: "that there is clear and convincing evidence"